

# MEMORANDUM

Agenda Item No. 8(M)(1)

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**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

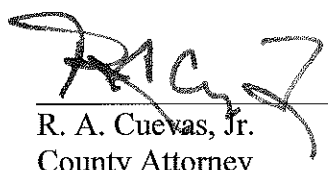
**DATE:** June 4, 2013

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Resolution authorizing the  
release of a "Covenant Running  
with the Land of Salvation Army  
in Favor of Miami-Dade County,  
Florida, Concerning the  
Preservation of Specimen Tree  
Resources"

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The accompanying resolution was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Audrey M. Edmonson.

  
\_\_\_\_\_  
R. A. Cuevas, Jr.  
County Attorney


RAC/smm

# Memorandum



**Date:** June 4, 2013

**To:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Resolution Authorizing the Release of a Covenant Running with the Land of The Salvation Army in Favor of Miami-Dade County, Florida, Concerning the Preservation of Specimen Tree Resources

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## **Recommendation**

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the release of a covenant running with the land in favor of Miami-Dade County concerning the preservation of specimen trees resources.

## **Scope**

The site is located at 1907 NW 38 Street, Miami-Dade County, in Commission District 3 (Commissioner Edmonson).

## **Fiscal Impact/Funding Source**

This item will have no fiscal impact to Miami-Dade County.

## **Track Record / Monitor**

The Manager of the Natural Resources Planning Section, Craig Grossenbacher, within the Department of Regulatory and Economic Resources' Division of Environmental Resources Management, will be responsible for the release of the subject covenant.

## **Background**

This resolution approves a Release of Covenant (Attachment A) in order for the property owner to remove trees to reconfigure an existing building. The covenant running with the land in favor of Dade County (Attachment B) was executed by the Salvation Army for the preservation of seven (7) specimen-sized trees on the property at 1907 NW 38 Street, Miami-Dade County (folio # 30-3122-063-0010) and was recorded in the official records of Miami-Dade County on July 20, 1993.

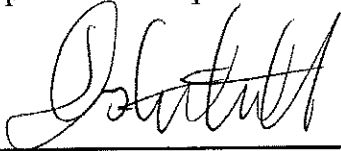
On December 7, 2012, a landscape plan was submitted for the redesign and reconfiguration of the existing Salvation Army building. The landscape plan showed that four (4) of the seven (7) covenanted trees, as well as other trees not included in the covenant, would be impacted by the proposed project. The applicant was advised of the existing tree covenant.

The applicant contacted Miami-Dade County's Tree Permitting Program concerning the covenant's tree preservation requirements. On January 10, 2013, staff from the Tree Permitting Program conducted an inspection to determine the condition of the seven (7) covenanted trees. The inspection determined that all six (6) covenanted live oak trees still exist within the property and the seventh covenanted tree, identified in the covenant as a sabal palm, is actually a non-native palm not of specimen size.

Of the four (4) covenanted trees that would be affected by the proposed plans, the three (3) live oak trees were determined to be in poor condition with significant decay, dead wood and poor branching structure. The fourth tree is a non-native species of palm that does not warrant preservation.

Based on the condition of the covenanted trees to be affected by the proposed reconfiguration of the existing Salvation Army building, the attached resolution authorizing the release of the subject covenant is recommended for approval.

If the covenant is released, a Miami-Dade County tree removal permit will be required prior to tree removal in accordance with Chapter 24 of the Code of Miami-Dade County. Mitigation for the loss of tree canopy and the protection of the two remaining specimen sized oak trees that are not proposed to be impacted will be required as conditions of the tree permit.

A handwritten signature in black ink, appearing to read "J. Osterholt", is written over a horizontal line.

Jack Osterholt, Deputy Mayor



# MEMORANDUM

(Revised)

**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**DATE:** June 4, 2013

**FROM:**   
R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Agenda Item No. 8(M)(1)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(M)(1)  
6-4-13

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING THE RELEASE OF A  
COVENANT RUNNING WITH THE LAND OF SALVATION  
ARMY IN FAVOR OF MIAMI-DADE COUNTY, FLORIDA,  
CONCERNING THE PRESERVATION OF SPECIMEN TREE  
RESOURCES AT 1907 NW 38 STREET, MIAMI-DADE  
COUNTY, FLORIDA

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

**WHEREAS**, on July 20, 1993, a covenant for the property located at 1907 NW 38 Street, Miami-Dade County, was recorded in Official Book 15987, Pages 3796-3805 of the Official Records of Miami-Dade County, Florida; and

**WHEREAS**, the subject "Covenant Running with the Land of Salvation Army in Favor of Dade County, Florida, Concerning the Preservation of Specimen Tree Resources" (the "Recorded Covenant") specifies that the seven (7) trees identified in the covenant shall be preserved in their present locations and protected from potentially damaging activities; and

**WHEREAS**, on December 7, 2012, a landscape plan was submitted for the reconfiguration of the existing Salvation Army building at the address above, showing that four (4) of the seven (7) covenanted trees would be impacted by the proposed project; and

**WHEREAS**, on January 10, 2013, an inspection of the four (4) covenanted trees was conducted by Miami-Dade County's Tree Permitting Program which determined that the three (3) live oak trees are in poor condition with significant decay, dead wood and poor branching structure while the fourth tree is a non-native palm species which does not warrant preservation; and

**WHEREAS**, the Recorded Covenant provides that it may be released by the resolution of the Board of County Commissioners,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board hereby determines that the release of the Recorded Covenant would not adversely affect the interest of the public and therefore approves the release of the "Covenant Running with the Land of Salvation Army in Favor of Dade County, Florida, Concerning the Preservation of Specimen Tree Resources" for the property located at 1907 NW 38 Street, Miami-Dade County, Folio No. 30-3122-063-0110; authorizes the Mayor or Mayor's designee to execute the attached Release of Covenant for and on behalf of Miami-Dade County, Florida; and pursuant to Resolution No. R-974-09, the Board directs the Mayor or the Mayor's designee to record said Release of Covenant in the Public Records of Miami-Dade County, Florida; and to provide a recorded copy of said Release of Covenant to the Clerk of the Board within thirty (30) days of execution of said Release of Covenant; and directs the Clerk of the Board to attach and permanently store a recorded copy together with this resolution.

The foregoing resolution was offered by Commissioner ,  
who moved its adoption. The motion was seconded by Commissioner  
and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman

Lynda Bell, Vice Chair

Bruno A. Barreiro

Jose "Pepe" Diaz

Sally A. Heyman

Jean Monestime

Sen. Javier D. Souto

Juan C. Zapata

Esteban L. Bovo, Jr.

Audrey M. Edmonson

Barbara J. Jordan

Dennis C. Moss

Xavier L. Suarez

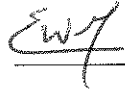
The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of June, 2013. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Eduardo W. Gonzalez

# ATTACHMENT A

## RELEASE OF COVENANT

This Release of Covenant was

prepared by:

LAZARO QUINTINO

Title:

ENVIR. RESOURCE PROT. SUPERVISOR

Organization:

MIAMI-DADE PER-DEPT

Date:

MARCH 22, 2013

Miami-Dade County, Florida, hereby releases the property described in EXHIBIT 1 attached hereto from the covenant that was executed on behalf of The Salvation Army and was recorded on July 20, 1993 (ATTACHMENT B) in Official Records Book 15987 at Pages 3796 -3805, of the Public Records of Miami-Dade County, Florida.

IN WITNESS WHEREOF, the undersigned has caused the Release to be executed this \_\_\_\_ day of \_\_\_\_\_, 2013

signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Carlos A. Gimenez, Mayor  
Miami-Dade County

STATE OF FLORIDA

SS:

COUNTY OF MIAMI-DADE

BEFORE ME, the undersigned authority, personally appeared, who acknowledged that he examined said document and executed same for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
NOTARY PUBLIC

MY COMMISSION EXPIRES:



**EXHIBIT 1**  
**Legal Description**

**Folio Number:** 30-3122-063-0010

**Property Address:** 1907 NW 38<sup>th</sup> Street, Miami-Dade County, Florida 33142

**Legal Description:** 22 53 41  
SALVATION ARMY TRACT PB 144-3 T-17626 TR A  
LOT SIZE 4.073 AC F/A/U 30-3122-000-0650 & 30-3122-  
008-0120-0160-0161-0170-0180-0391-0392-0393-0400 &  
30-3122-009-0010-0030-0120-0130-0140-0150-0160-0170-  
0180-0190-0410-0420-0430

# ATTACHMENT B

AMERICAN NATIONAL  
REPRODUCTIONS

July 20 1993  
DATE MICROFILMED

COURTHOUSE TOWER  
LOCATION

Charles Charles  
CAMERA OPERATOR  
DEPUTY CLERK, CIRCUIT COURT

JUN 2 '93 17:22 FROM SCHWEBKE SHISKIN

PAGE.003

RE: 1598713796

93R356473 1993 JUL 20 12:00

COVENANT RUNNING WITH THE LAND OF  
SALVATION ARMY IN FAVOR OF DADE COUNTY,  
FLORIDA, CONCERNING THE PRESERVATION  
OF SPECIFIC TREE RESOURCES LOCATED AT  
See Exhibit "A"  
DADE COUNTY, FLORIDA

The undersigned, The Salvation Army (being owner(s) of a parcel of real property legally described as set forth in Exhibit A, attached hereto and incorporated herein by reference, and located at See Exhibit "A", Dade County, Florida, and furthermore identified for ad valorem tax purposes by all or part of Folio Number(s) See Exhibit "A" (hereinafter referred to as the "property") hereby create(s) a covenant, on behalf of the undersigned owner(s), heirs, successors, assigns and grantees, running with the land to and in favor of Dade County, Florida (hereinafter referred to as the "County"), its successors and assigns, with respect to the property, as follows:

1. The undersigned owner(s) covenant(s) with the County that those trees identified in Exhibit B and whose locations are designated in Exhibit C, that tree survey entitled, "[redacted]", prepared by [redacted], dated [redacted] and attached hereto and incorporated herein by reference, shall be preserved in their present locations. For purposes of this covenant, "preservation" shall mean the protection of trunk, branch, and root systems from damage that

[Tentative Plat "Salvation Army Tract" prepared by Schwebke-Shiskin & Associates, Inc. under pending SD-763 with a last revision date of 10/25/92]

July 20, 1993  
DATE MICROFILMED

COURTHOUSE TOWER  
LOCATION

*Christie Charles*  
CAMERA OPERATOR  
DEPUTY CLERK, CIRCUIT COURT

JUN 9 '93 17:02 FROM SCHWEBKE SHISKIN

PAGE.004

DEF. REC. 15987 3797

would result from activities including but not limited to top pruning, limb removal, root pruning, changing of soil grade beneath drip line, and deposition of building materials or fluids beneath the dripline of the tree(s) subject to this covenant.

2. The undersigned owner(s) covenant(s) with the County that, with regard to those trees identified in Exhibit B, all Tree Protection requirements described in Chapter 24-60.5 of the Code of Metropolitan, Dade County will be strictly adhered to during the development of the property.
3. The undersigned owner(s) covenant(s) and represent(s) that the undersigned owner(s) is/are the owner(s) in fee of the Property and that no other person or other legal entity of any kind whatsoever has any fee interest in the Property. The undersigned owner(s) covenant(s) and represent(s) that any security interest holder(s) in the Property has/have consented to the execution of this covenant running with the land.
4. At least ten (10) days prior to commencing any work within the dripline of any tree designated in Exhibit "B", the Department of Environmental Resources Management shall be notified in writing of such intended work. Any work within the dripline needs prior written

July 20 1983  
DATE MICROFILMED

COURTHOUSE TOWER  
LOCATION

Charles  
CAMERA OPERATOR  
DEPUTY CLERK, CIRCUIT COURT

JUN 9 '83 17:03 FROM SCHWEBKE SHISKIN

PAGE 005

OFF REC: 1598713798

consent of DERM. Any and all specific requirements or conditions imposed by DERM with respect to said work and relating to preservation of said tree(s) shall be strictly adhered to.

5. After this Covenant is accepted by the County, the Covenant, together with a certified copy of the County's resolution accepting the Covenant, shall be promptly filed with the Clerk of Court for recording in the official records of Dade County.
6. The undersigned owner(s) covenant(s) and agree(s) that all successors, heirs, assigns and grantees with respect to the Property shall be notified in writing of the tree protection and preservation stipulations contained herein and DERM shall receive copies of all such written notifications. The failure of the undersigned owner(s) to provide such written notice to all successors, heirs, assigns, and grantees shall not, however, affect the validity or enforceability of this covenant as to any such successors, heirs, assigns, and grantees.
7. No cancellation, revision, alteration or amendment of this covenant shall be effective without prior approval of the County by the resolution of the Board of County Commissioners.

July 20 1993  
DATE MICROFILMED

COURTHOUSE TOWER  
LOCATION

Charles Charles  
CAMERA OPERATOR  
DEPUTY CLERK, CIRCUIT COURT

JUN. 9 '93 17183

FROM SCHWEBKE, SHISKIN

PAGE.008

OFF.  
REC. 15987P3799

8. This covenant shall run for the benefit of the citizens of Dade County, Florida and is subject to specific enforcement by Dade County, Florida by and through the Director of Environmental Resources Management. In the event that the provisions of this Restrictive Covenant are not complied with, an action at law or in equity may be commenced by Dade County, by and through the Director of the Department Environmental Resources Management.
9. The undersigned owner(s) shall notify DERM within one (1) month of any conveyance, sale, granting or transfer of the Property or portion thereof, to any heirs, successors, assigns or grantees, including, without limitation, the conveyance of any security interest in said Property to any security interest holder.

July 20, 1993  
DATE MICROFILMED

COURTHOUSE TOWER  
LOCATION

Charles Charles  
CAMERA OPERATOR  
DEPUTY CLERK, CIRCUIT COURT

OFF: 1598713800  
REC:

Witnesses:

THE SALVATION ARMY, a Georgia  
corporation

Joyce Hogg  
Print Name: JOYCE HOGG  
Marlene Marante  
Print Name: MARLENE MARANTE

By: Major Ted R. Arrowood  
Name: MAJOR TED R. ARROWOOD  
Its: AREA COMMANDER

STATE OF FLORIDA

COUNTY OF DADE

The foregoing instrument was acknowledged before me this  
7 day of JUNE, 1993 by MAJOR TED ARROWOOD of THE  
SALVATION ARMY, a Georgia corporation, on behalf of the  
corporation. He/She is personally known to me or has produced  
PERSONAL KNOWLEDGE as identification and who did not take an  
oath.

Jacqueline S. Gajus  
NOTARY PUBLIC

JACQUELINE S. GAJUS  
Typed or Printed Name of Notary

My commission expires:

Serial No., if any: \_\_\_\_\_



THIS INSTRUMENT PREPARED BY:

DERM-ENVIRONMENTAL RESOURCES MANAGEMENT  
33 S.W. 2 AVENUE  
MIAMI, FLORIDA 33130

July 20, 1993  
DATE MICROFILMED

COURTHOUSE TOWER  
LOCATION

W. Charles  
CAMERA OPERATOR  
DEPUTY CLERK, CIRCUIT COURT

RE: 15987-3801

EXHIBIT "A"

LEGAL DESCRIPTION:

Lots 1, 3, 15 through 22 and portions of Lots 7, 8, 9, 10, 11 and 14 in Block 1; Lots 1, 2, 3 and a portion of Lot 4 in Block 3; said lots lying in "PLAIN VIEW", according to the plat thereof recorded in Plat Book 7 at Page 80 of the Public Records of Dade County, Florida; Together with a portion of the East 56.00 feet of the South 1/2 of the Northwest 1/4 of the Southwest 1/4 of the Southeast 1/4 of Section 22, Township 33 South, Range 41 East; Together with Lots 12 through 19, Block 1 and Lots 13, 14, 15 and the East 96.00 feet of Lots 16 and 17, Block 2, "GARDEN CITY", according to the plat thereof recorded in Plat Book 5 at Page 73 of the Public Records of Dade County, Florida; Together with portions of the road Right-of-Way and alleys lying within said plats, all being more particularly described as follows:

Commence at the intersection of the centerline of N. W. 19th Avenue with the centerline of N. W. 38th Street and run South 88 degrees 16 minutes 04 seconds West along said centerline of N. W. 38th Street for 60.59 feet; thence run North 01 degrees 43 minutes 56 seconds West, at right angles to the last described course for 25.00 feet to the Point of Beginning of the parcel hereinafter described; thence run South 88 degrees 16 minutes 04 seconds West, along the North Right-of-Way Line of N. W. 38th Street for 909.64 feet; thence run South 88 degrees 15 minutes 34 seconds West, continuing along said North Right-of-Way Line of N. W. 38th Street, for 292.03 feet to a point on the South Line of the aforesaid Lot 16, Block 2, "GARDEN CITY", that is 96.00 feet West of the Southeast Corner of said Lot 16; thence run North 2 degrees 21 minutes 31 seconds West along the West Line of the East 96.00 feet of the aforesaid Lots 16 and 17, for 85.00 feet; thence run North 88 degrees 15 minutes 34 seconds East, along the North Line of said Lot 17 (and its Easterly prolongation) for 101.00 feet; thence run North 2 degrees 21 minutes 31 seconds West, along the centerline of a Ten Foot Alley for 38.11 feet to the Southerly Right-of-Way Line of the "Airport Expressway" (State Road No. 35), as set forth in Plat Book 68 at Page 64 of the Public Records of Dade County, Florida; thence run North 67 degrees 30 minutes 32 seconds East along said Right-of-Way Line, for 5.32 feet; thence run North 88 degrees 15 minutes 34 seconds East, along the North Line of the aforesaid Lot 13, Block 2, "GARDEN CITY", (and its Easterly prolongation) for 185.96 feet; thence run North 2 degrees 23 minutes 14 seconds West along the centerline of N. W. 31st Court for 35.25 feet to the aforesaid Southerly Right-of-Way Line of the "Airport Expressway"; thence run North 77 degrees 30 minutes 11 seconds East along said Right-of-Way Line for 25.38 feet; thence run North 88 degrees 16 minutes 04 seconds

July 20, 1993  
DATE MICROFILMEDCOURTHOUSE TOWER  
LOCATIONMorte Charles  
CAMERA OPERATOR  
DEPUTY CLERK, CIRCUIT COURT

East, continuing along said Right-of-Way Line, for 243.59 feet to the West Right-of-Way Line of N. W. 20th Court; thence run North 88 degrees 05 minutes 24 seconds East for 410.56 feet to a point on the West Line of Lot 4, Block 1, "PLAIN VIEW", that is 26.41 feet South of the aforesaid-described Right-of-Way Line of the "Airport Expressway"; thence run South 2 degrees 29 minutes 29 seconds East along the West Line of said Lot 4 for 22.09 feet; thence run North 88 degrees 05 minutes 40 seconds East, for 135.53 feet; thence run South 2 degrees 29 minutes 51 seconds East for 48.50 feet; thence run South 88 degrees 05 minutes 40 seconds West for 135.52 feet; (said last mentioned three courses being coincident with the North, East, and South boundaries respectively, of Lot 3, Block 1, "PLAIN VIEW"); thence run South 2 degrees 29 minutes 29 seconds East along the West Line of Lot 2, Block 1, "PLAIN VIEW" for 48.50 feet; thence run North 88 degrees 05 minutes 40 seconds East for 135.51 feet; thence run South 2 degrees 29 minutes 51 seconds East for 22.14 feet to a Point of Curvature (said last mentioned two courses being coincident with the North and East boundaries respectively, of Lot 1, Block 1, "PLAIN VIEW"); thence run Southwesterly along a circular curve to the right having a radius of 25.00 feet and a central angle of 90 degrees 44 minutes 55 seconds for an arc distance of 39.60 feet to a Point of Tangency and the Point of Beginning. Lying and being in Section 22, Township 53 South, Range 41 East, Dade County, Florida.

**NOTE**

Those certain road right-of-ways and alleys lying between N. W. 36th Street and State Road No. 25 and being a portion of the within described property are to be vacated by the platting process.

30-3122-009-0030  
30-3122-009-0420  
30-3122-008-0393  
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30-3122-008-0392

Exhibit "A"

2 of 3

IMAGE 211661 - AM

209812861  
REC-159873802



Date 20 1993  
DATE MICROFILMEDCOURTHOUSE TOWER  
LOCATIONDante Charles  
CAMERA OPERATOR  
DEPUTY CLERK, CIRCUIT COURTOFF: 15987103803  
REC:

## "EXHIBIT B"

- #5 Live Oak (Quercus virginiana, 24" DBH)
- #6 Live Oak (Quercus virginiana, 24" DBH)
- #7 Live Oak (Quercus virginiana, 24" DBH)
- #25 Live Oak (Quercus virginiana, 30" DBH)
- #27 Live Oak (Quercus virginiana, 18" DBH)
- #28 Sabal palm (Sabal palmetto, 20" DBH)
- #33 Live Oak (Quercus virginiana, 30" DBH)

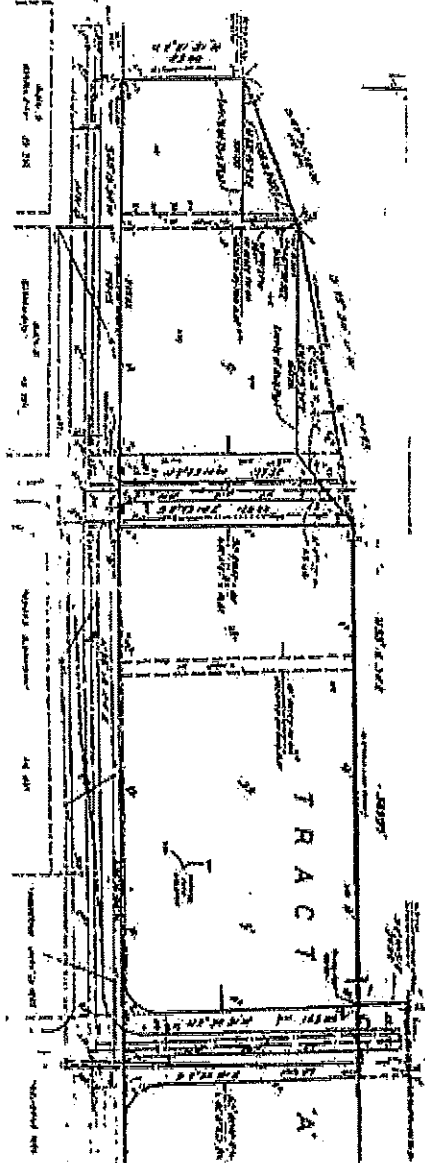
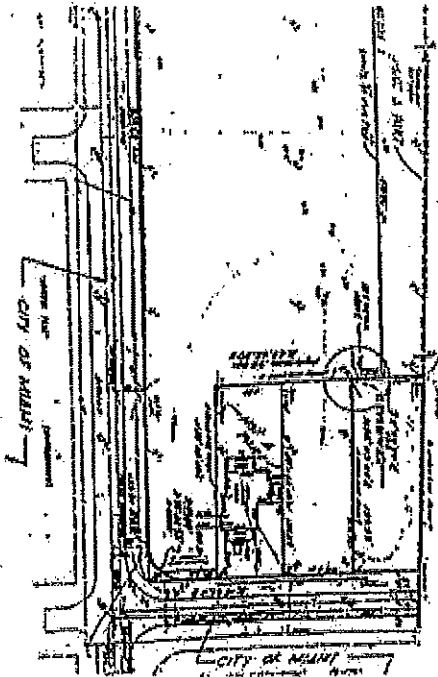
July 20, 1993  
DATE MICROFILMED

COURTHOUSE, TOWER  
LOCATION

*Archie Charles*  
CAMERA OPERATOR  
DEPUTY CLERK, CIRCUIT COURT

REF 1598763804

1052



"Exhibit C" 2022

I HEREBY CERTIFY THAT THIS "CERTIFICATE MAP" of the property described herein is true and correct to the best of my knowledge and belief as personally ascertained and given under oath by me, and that this survey complies with the minimum technical standards required by the Federal Land Survey of the Department of the Interior, Chapter 22, sec. 1, of the Federal Administrative Code.

100-47511-1 (11/20/90) 1-230-24-1000, 1000.

Robert H. Burns, President - Indorsed  
 Presidential Laid Surveyor 6192  
 State of Florida

PRICES				
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